

## **CHAPTER 25-16**

### **RESIDENTIAL CARE AND SERVICES FOR THE DEVELOPMENTALLY DISABLED**

#### **25-16-01. Definitions.**

In this chapter unless the context or subject matter otherwise requires:

1. "Department" means the department of human services.
2. "Treatment or care center" means any hospital, home, or other premises operated to provide relief, care, custody, treatment, day activity, work activity, or extended employment services to individuals with a developmental disability.

#### **25-16-02. License required.**

The operator of a treatment or care center for individuals with a developmental disability shall secure annually from the department a license as required by rules adopted under this chapter.

#### **25-16-03. Requirements for license.**

The department shall issue a license for the operation of a treatment or care center for individuals with a developmental disability upon a showing that:

1. The premises to be used are in fit, safe, sanitary condition and properly equipped to provide good care and treatment;
2. The persons in active charge of the center and their assistants are qualified by training and experience to carry on efficiently the duties required of them;
3. The health, safety, and well-being of the residents cared for and treated therein will be properly safeguarded;
4. There is sufficient entertainment, treatment, educational, and physical facilities and services available to the residents therein;
5. Appropriate arrangements are made for a medical and psychological examination of each resident; and
6. The provider is in compliance with rules adopted by the department under this chapter.

##### **25-16-03.1. Conviction not bar to licensure - Exceptions.**

Conviction of an offense does not disqualify a person from licensure under this chapter unless the division determines that the offense has a direct bearing upon a person's ability to serve the public as an owner or operator of a treatment or care center for individuals with a developmental disability, or that, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

#### **25-16-04. Inspection and report by department.**

The department shall inspect the facilities and premises of the applicant to determine sanitary conditions and the adequacy of medical and nursing services.

#### **25-16-05. Content of license.**

The license to operate a treatment or care center for individuals with a developmental disability issued under the provisions of this chapter must specify:

1. The name of the licensee.
2. The premises to which the license is applicable.
3. The number of residents who may be received in such premises at any one time.
4. The date of expiration of the license.

#### **25-16-06. Department to prescribe forms - Rules.**

The department may prescribe forms for the registration and record of the persons residing in treatment or care centers for individuals with a developmental disability and may adopt reasonable rules for the conduct of such centers as are necessary to carry out the purposes of this chapter.

**25-16-07. Records of treatment or care center confidential.**

Except as otherwise authorized by law, an agent of the department of human services or the superintendent of the life skills and transition center or the licensee or their agents or employees may not disclose the contents of the individual records of a treatment or care center for individuals with a developmental disability, nor of the reports received from those records, except:

1. In a judicial proceeding when ordered by the presiding judge;
2. To a law enforcement official for a law enforcement purpose or any other legally constituted boards or agencies serving the interests of the residents for treatment, payment, or health care operations, to arrange, facilitate, or coordinate service to any such person;
3. To the parents or legal guardians of the resident;
4. To a physician to aid in the treatment of an individual within the fourth degree of consanguinity of a deceased resident, if the disclosure is limited to genetic health information that has a direct bearing on the health of the relative, the relative's child, or the relative's decision to have a child; or
5. To an individual who is within the fourth degree of consanguinity of a deceased resident, if the disclosure is limited to information about a resident needed to establish a family's genealogy.

**25-16-08. Revocation of license.**

The department may revoke a license of a treatment or care center for individuals with a developmental disability upon a proper showing that:

1. Any of the conditions set forth in section 25-16-03 as requirements for the issuance of the license no longer exists;
2. The license was issued upon fraudulent or untrue representations;
3. The owner or operator has violated any of the rules of the department; or
4. The owner or operator of the center has been guilty of an offense determined by the department to have a direct bearing upon a person's ability to serve the public as an owner or operator, or the department determines, following conviction of an offense, that the person is not sufficiently rehabilitated under section 12.1-33-02.1.

**25-16-09. Hearing on denial or revocation of license.**

Before any application for a license to conduct a treatment or care center for individuals with a developmental disability is denied or before the revocation of such license by the department, written charges as to the reasons for the revocation or denial must be served upon the applicant or licensee, who has a right to a hearing before the department, if a hearing is requested within ten days after service of written charges.

**25-16-10. Purchase of services.**

Repealed by S.L. 2003, ch. 231, § 2.

**25-16-10.1. Maximum annual return on investment.**

Repealed by S.L. 2003, ch. 231, § 3.

**25-16-11. Funds of state department of human services for purchasing residential care, custody, treatment, and education for developmentally disabled persons.**

Repealed by S.L. 2001, ch. 259, § 1.

**25-16-12. Efforts to obtain private and governmental grants.**

The department of human services and the duly licensed treatment or care centers for individuals with a developmental disability may exert all possible efforts to obtain grants, both private and governmental, for the care, custody, treatment, training, and education of individuals with a developmental disability.

**25-16-13. Expenses chargeable against patient, patient's estate, or responsible relatives.**

This chapter does not relieve the responsibility of the patient, the patient's estate, or responsible relatives of the expenses for care and treatment as provided in chapter 25-04 or 50-06.3. The provisions of chapter 25-04 or 50-06.3 applicable to the expenses of care and treatment of patients apply to this chapter.

**25-16-14. Definitions - Group homes for individuals with developmental disabilities - Zoning.**

1. For the purposes of this section:
  - a. "Group home" means any community residential facility, foster home, family care facility, or other similar home for individuals with a developmental disability.
  - b. "Individual with a developmental disability" means an individual with a severe, chronic disability which:
    - (1) Is attributable to a mental or physical impairment or combination of mental and physical impairments;
    - (2) Is manifested before the individual attains age twenty-two;
    - (3) Is likely to continue indefinitely;
    - (4) Results in substantial functional limitations in three or more of the following areas of major life activity:
      - (a) Self-care;
      - (b) Receptive and expressive language;
      - (c) Learning;
      - (d) Mobility;
      - (e) Self-direction;
      - (f) Capacity for independent living; and
      - (g) Economic sufficiency; and
    - (5) Reflects the individual's needs for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are lifelong or extended duration and are individually planned and coordinated.
2. Notwithstanding the provisions in chapter 11-33, 40-47, or 58-03, or any other provisions authorizing any political subdivision to establish or enforce zoning regulations, a licensed group home serving six or fewer individuals with a developmental disability must be considered a permitted use in a single-family or equivalent least-density residential zone, and a licensed group home serving eight or fewer individuals with a developmental disability must be considered a permitted use in any area zoned for residential use of greater density than single-family use.

**25-16-15. Depreciation recapture on the sale of fixed assets.**

Repealed by S.L. 2003, ch. 231, § 2.

**25-16-16. Owner compensation for services provided.**

Repealed by S.L. 2003, ch. 231, § 3.